

HOUSE No. 2860

By Mr. Hill of Ipswich, petition of Barbara A. L'Italien for legislation to provide for independent investigations by the Disabled Persons Protection Commission of abuse and neglect of mentally retarded persons. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO INDEPENDENT INVESTIGATIONS OF ABUSE AND NEGLECT OF MENTALLY RETARDED PERSONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 *Whereas*, a stronger system of investigations into cases of
- 2 abuse, mistreatment, human rights violations and neglect is
- 3 required on the State level for individuals with mental retardation.
- 4 *Whereas*, The House Post Audit and Oversight Bureau's Multi-
- 5 year Review of DMR concluded that "DMR has failed to develop
- 6 a system of oversight that is able to identify problem cases and
- 7 move swiftly to remove clients from dangerous or abusive situa-
- 8 tions," and the Bureau recommended that "dramatic changes in
- 9 the investigations process should take place including such
- 10 options as ceding substantial portions of the investigations unit to
- 11 DPPC, complete abolition of the unit and transfer to an outside
- 12 agency, or a complete restructuring of the oversight, monitoring
- 13 and investigations process."
- 14 *Whereas*, at current staffing levels the Disabled Persons Protec-
- 15 tion Commission (DPPC) is only able to investigate fifteen per-
- 16 cent (15%) of the 1,500 cases of abuse that are currently screened
- 17 in annually for investigation.
- 18 *Whereas*, the vast majority of 19C and non-19C cases of abuse,
- 19 mistreatment, human rights violations and neglect involving indi-
- 20 viduals with mental retardation that are substantiated are investi-
- 21 gated by the Department of Mental Retardation resulting in the
- 22 agency investigating itself.

23 *Whereas*, the function of investigations should be independent
24 of the agency providing the services.

25 Effect the transfer of all current investigations staff, vacant
26 positions and budget from the Department of Mental Retardation
27 to the Disabled Persons Protection Commission hereinafter
28 referred to as the Commission within 60 days of the enactment of
29 this bill. The current DMR Director of Investigations shall report
30 directly to and work with the Executive Director of the DPPC to
31 effect the staff and budget transfer. No less than 30 full time
32 equivalent positions shall comprise the transfer of staff from DMR
33 to DPPC. All transferred staff are limited to conducting investiga-
34 tions of cases affecting only persons with mental retardation.

35 \$3.5 million will be appropriated to the Disabled Persons Pro-
36 tection Commission to allow the Commission to investigate all
37 19C cases under their jurisdiction as well as non-19C (regulatory)
38 cases involving individuals with mental retardation.

39 Eight months after the transfer, the Executive Director of the
40 DPPC will recommend and justify to the general court an amount
41 of additional funds to be appropriated to successfully conduct all
42 19C investigations and all non-19C investigations of cases
43 involving individuals with mental retardation.

44 Three years after the incorporation of DMR's investigations
45 staff into DPPC, an independent evaluation, under contract with
46 the State Auditor's Office, shall be conducted to determine the
47 effectiveness of the transfer and recommend appropriate actions
48 such as continuance or other options as may be warranted to
49 include but not be limited to a merging of investigative staff of
50 other executive office of health and human services agencies to
51 DPPC to accomplish objective and independent investigations for
52 all Executive Office of Health and Human Services Agencies and
53 the individuals they serve.